



NO JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11	VALERIE WILLIAMS, an	)	Case No. EDCV 13-01954 DDP (DTBx)
12	individual,	)	
13		)	<b>ORDER GRANTING DEFENDANT'S MOTION</b>
14	Plaintiff,	)	<b>TO DISMISS PLAINTIFF'S 10TH CLAIM</b>
15		)	<b>FOR RELIEF OF SECOND AMENDED</b>
16	v.	)	<b>COMPLAINT</b>
17		)	
18	COUNTY OF RIVERSIDE, a	)	[DKT No. 15.]
19	municipal corporation;	)	
20	STANLEY SNIFF, individually	)	
21	and in his official capacity	)	
22	as Sheriff-Coroner of	)	
23	Riverside County; JEREMY	)	
24	BRACEY, an individual; RYAN	)	
25	RAHNER, an individual;	)	
26	CARLOS VASQUEZ, an	)	
27	individual; STEVEN	)	
28	LYCOPOLUS, an individual;	)	
	JOHN KEHRER, an individual,	)	
		)	
	Defendants.	)	
		)	

Before the Court is Defendant County of Riverside ("Defendant")'s Motion to Dismiss Portions of Second Amended Complaint. (DKT No. 15.) The Motion is fully briefed and suitable for adjudication without oral argument. Having reviewed the parties' submissions, the court now adopts the following order.

1     **I.     Background**

2             Defendant's Motion to Dismiss focuses on one of twelve causes  
3 of action asserted by Plaintiff Valerie Williams ("Plaintiff")  
4 arising from the death of her son, Anthony James Lawson ("Lawson").  
5 The relevant factual allegations are as follows:

6             At approximately 12:43 a.m. on October 21, 2012, Plaintiff  
7 called 911 to request assistance at her residence, located at 7361  
8 Citrus Valley Avenue in Eastvale, Los Angeles. (Second Amended  
9 Complaint ¶ 24.) While responding, Defendant Deputy Jeremy Bracey  
10 ("Bracey") heard another call from dispatch notifying him of a  
11 burglary in the area. (¶ 24.) Bracey mistakenly identified Lawson  
12 as the burglar, called for backup, and instructed Lawson to step  
13 back to the sidewalk and sit on the sidewalk, which Lawson did. (¶¶  
14 26, 27.) Bracey attempted to talk to Lawson, but noticed that he  
15 was dripping with sweat and appeared to be incoherent. (¶ 28.)  
16 Lawson was not armed with any weapons. (¶ 29.) He was not searched.  
17 (Id.)

18             Lawson began to walk in the opposite direction and was  
19 detained when Defendant Deputy Ryan Rahner ("Rahner") arrived on  
20 the scene. (¶ 30.) Lawson was known by Rahner from previous  
21 contacts in the neighborhood and, Plaintiff alleges, Rahner knew,  
22 or should have known, that Lawson had a mental illness. (¶ 31.) As  
23 a result of his mental distress, Lawson walked away from Bracey and  
24 tried to evade the deputies' attempts to hold him down or place him  
25 in handcuffs, while making "animal-like sounds." (¶ 33.) Though  
26 Lawson attempted to avoid the officers, he did not attempt to harm  
27 anyone. (Id.)

1 In response to a call for back-up, Defendant Deputy Steven  
2 Lycopolus ("Lycopolus") arrived on the scene and immediately used  
3 two full cartridges of an X26 taser on Lawson, discharging the  
4 weapon nine times in less than three minutes. (¶ 36.) Lycopolus  
5 also struck Lawson several times on his head. (¶ 27, 38.) Bracey,  
6 Rahner, and Lycopolus then pinned Lawson to the ground in an  
7 attempt to place handcuffs on him. (¶ 40.) The officers also used a  
8 hobble device to tie Lawson's legs together. (¶ 42.)

9 The Defendants summoned paramedics to the scene at  
10 approximately 1:05 a.m. when they realized Lawson was unresponsive  
11 and not breathing. (¶ 44.) Defendants did not attempt to render  
12 first aid to Lawson. (Id.) Lawson was declared dead at the  
13 hospital. (¶ 45.)

## 14 15 **II. Legal Standard**

16 A complaint will survive a motion to dismiss when it contains  
17 "sufficient factual matter, accepted as true, to state a claim to  
18 relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S.  
19 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting Bell Atl.  
20 Corp. v. Twombly, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d  
21 929 (2007)). When considering a Rule 12(b)(6) motion, a court must  
22 "accept as true all allegations of material fact and must construe  
23 those facts in the light most favorable to the plaintiff." Resnick  
24 v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). Although a complaint  
25 need not include "detailed factual allegations," it must offer  
26 "more than an unadorned, the-defendant-unlawfully-harmed-me  
27 accusation." Iqbal, 556 U.S. at 678. Conclusory allegations or  
28 allegations that are no more than a statement of a legal conclusion

1 "are not entitled to the assumption of truth." Id. at 679. In other  
2 words, a pleading that merely offers "labels and conclusions," a  
3 "formulaic recitation of the elements," or "naked assertions" will  
4 not be sufficient to state a claim upon which relief can be  
5 granted. Id. at 678 (citations and internal quotation marks  
6 omitted).

7 "When there are well-pleaded factual allegations, a court  
8 should assume their veracity and then determine whether they  
9 plausibly give rise to an entitlement of relief." Id. at 679.  
10 Plaintiffs must allege "plausible grounds to infer" that their  
11 claims rise "above the speculative level." Twombly, 550 U.S. at  
12 555. "Determining whether a complaint states a plausible claim for  
13 relief" is a "context-specific task that requires the reviewing  
14 court to draw on its judicial experience and common sense." Iqbal,  
15 556 U.S. at 679.

### 17 **III. Discussion**

18 The instant Motion seeks dismissal of Plaintiff's Tenth Cause  
19 of Action. This claim seeks relief under California Civil Code §  
20 52.1 ("the Bane Act").

21 Section 52.1 provides a right to relief when someone  
22 "interferes by threats, intimidation, or coercion ... with the  
23 exercise or enjoyment by any individual or individuals of rights  
24 secured by the Constitution or laws of the United States, or of the  
25 rights secured by the Constitution or laws of [California]." The  
26 elements of a claim for relief thus include (1) an act of  
27 interference with a legal right by (2) intimidation, threats or  
28 coercion. See Jones v. Kmart Corp., 17 Cal.4th 329, 334 (1998). A

1 suit may be brought for damages, injunctive relief, or other  
 2 equitable relief, as well as reasonable attorney's fees. See §  
 3 52.1(a),(b),(h).

4 Plaintiff's Bane Act claim alleges that Defendants "interfered  
 5 or attempted to interfere, by threatening or committing acts of  
 6 violence, coercion or intimidation, with [Lawson's] exercise and  
 7 enjoyment of, inter alia, the following rights":

8 [1] His right to be freed from [a] unreasonable searches and  
 9 seizures and [b] unreasonable excessive force;

10 [2] His right to seek medical treatment for his serious  
 11 medical needs; and

12 [3] His right not to have his serious medical needs ignored by  
 13 officials.

14 (SAC ¶¶ 138-139.3.) The court considers the viability of  
 15 Plaintiff's Section 52.1 claim as to each of the rights with which  
 16 Plaintiff asserts Defendants interfered.

17 **A. Interference with the Right to be Free from Excessive Force**

18 First, the court considers whether Plaintiff has stated a  
 19 viable Section 52.1 claim as to Defendants' alleged interference  
 20 with Lawson's right to be free from excessive force. (See SAC ¶  
 21 139.1 (second clause, marked [1][b] above.) As Defendant notes, the  
 22 majority of relevant cases support the view that an allegation of  
 23 excessive force is insufficient to state a claim under Section 52.1  
 24 absent an allegation that the defendant used such force to  
 25 interfere with a separate, independent right of the plaintiff. The  
 26 Fourth Amendment right to be free from excessive force is not such  
 27 a separate, independent right. See, e.g., Justin v. City & Cnty. of  
 28 San Francisco, 2008 WL 1990819 (N.D. Cal. May 5, 2008) ("[A] claim

1 under section 52.1 cannot be predicated on allegations that  
2 Defendants used force to interfere with [the plaintiff's] right to  
3 be free from bodily restraint or harm. Section 52.1 is only  
4 applicable when a defendant intends by his or her conduct to  
5 interfere with a separate, affirmative right enjoyed by a  
6 plaintiff; it does not apply to a plaintiff's allegation of use of  
7 excessive force absent a showing that the act was done to interfere  
8 with a separate state or federal constitutional right.") (internal  
9 citations omitted); Josfan v. Indochine, 2012 U.S. Dist. LEXIS  
10 4689, 36-37 (C.D. Cal. Jan. 13, 2012) (dismissing Section 52.1  
11 claim on ground that the "[p]laintiff has not alleged that the  
12 officers' alleged use of excessive force interfered with a separate  
13 constitutional right"); Jones v. City of Oakland, 2013 WL 1333933  
14 (N.D. Cal. Mar. 29, 2013) ("A claim under Section 52.1 may only  
15 proceed if there is evidence of 'threats, intimidation, or  
16 coercion' independent from the Constitutional violation (such as  
17 wrongful detention or excessive force) itself.").

18 Several courts have suggested that excessive force alone can  
19 satisfy the requirements of Section 52.1. See, e.g., Knapps v. City  
20 of Oakland, 647 F. Supp. 2d 1129, 1168 (N.D. Cal. 2009); Warner v.  
21 Cnty. of San Diego, 2011 WL 662993 (S.D. Cal. Feb. 14, 2011).  
22 However, these cases do not present a persuasive basis for  
23 deviating from the majority view. Knapps, on which Warner relies,  
24 bases its conclusion that the plaintiff, a victim of excessive  
25 force by police officers, stated a claim under Section 52.1 on the  
26 proposition that "the elements of a section 52.1 excessive force  
27 claim are essentially identical to those of a § 1983 excessive  
28

1 force claim." 647 F. Supp. 2d at 1168. However, this proposition  
2 is not supported by reasoning or reasoned authority.<sup>1</sup>

3 Having considered the relevant authority, this court adopts  
4 the majority view. Under this approach, Defendants' alleged  
5 interference with Lawson's right to be free from excessive force  
6 cannot be the basis for a viable Section 52.1 claim. Accordingly,  
7 the court will dismiss, with prejudice, Plaintiff's Section 52.1  
8 claim insofar as it asserts such a theory in the second clause of  
9 SAC ¶ 139.1.

10 **B. Interference with the Right to be Free from Unreasonable**  
11 **Searches and Seizures**

12 Next, the court considers whether Plaintiff has stated a  
13 viable Section 52.1 claim with respect to Defendants' alleged  
14 interference with Lawson's right to be free from unreasonable  
15 searches and seizures. (See SAC ¶ 139.1 (first clause, marked  
16 [1][a] above).)

17 As an initial matter, there is no doubt that a plaintiff may  
18 state a viable Section 52.1 claim by alleging that a defendant  
19 subjected him to an unlawful arrest and, in so doing, exercised  
20 excessive force. In other words, an arrest without probable cause,  
21 in violation of the Fourth Amendment, can constitute the violation  
22 of a separate and independent right that Section 52.1 requires. See  
23 Bender v. Cnty. of Los Angeles, 217 Cal. App. 4th 968 (2013)

---

24 <sup>1</sup> Knapps relies, for this proposition, on Corser v. Cnty. of  
25 Merced, 2009 WL 174144 (E.D. Cal. Jan. 26, 2009). However, Corser,  
26 in turn, cites, for the same proposition, Edson v. City of Anaheim,  
27 63 Cal.App.4th 1269, 1273 (1998), which does not discuss Section  
28 52.1, and City of Simi Valley v. Superior Court, 111 Cal. App. 4th  
1077, 1085 (2003), which discusses Section 52.1 but provides no  
support for the proposition.

1 ("[T]he Bane Act applies because there was a Fourth Amendment  
2 violation—an arrest without probable cause—accompanied by the  
3 beating and pepper spraying of an unresisting plaintiff, i.e.,  
4 coercion that is in no way inherent in an arrest, either lawful or  
5 unlawful.")

6       However, in the instant case, Plaintiff has not alleged  
7 sufficient facts to plausibly assert that an unlawful arrest  
8 occurred. Plaintiff alleges that, while en route to Plaintiff's  
9 residence, Defendant Bracey heard a call notifying him of a  
10 burglary in the same area and mistakenly identified Lawson as the  
11 suspect in the burglary. (SAC ¶ 25.) Plaintiff additionally asserts  
12 at various points in the SAC that "it is inconclusive simply from  
13 Lawson's race and dress that Lawson was in fact the same person  
14 identified as a suspect in the burglary call." (SAC ¶¶ 57, 67, 78.)  
15 No other relevant facts are alleged. These allegations are too  
16 conclusory to plausibly assert that Lawson was arrested without  
17 probable cause. See Iqbal, 556 U.S. at 679. Accordingly, the court  
18 will dismiss, without prejudice, Plaintiff's Section 52.1 claim  
19 insofar as it asserts interference with Lawson's Fourth Amendment  
20 right to be free from unreasonable searches and seizures, as stated  
21 in the first clause of SAC ¶ 139.1.

22 **C. Interference with the Right to Free from Deliberate**  
23 **Indifference to Serious Medical Needs**

24       The court next considers whether Plaintiff has stated a viable  
25 Section 52.1 claim with respect to her assertion that Defendants  
26 interfered with Lawson's "right not to have his serious medical  
27 needs ignored by officials." (FAC ¶¶ 139.3.) Defendant moves to  
28 dismiss the claim as to this theory of relief on the basis that it



1 implausibly involves retroactive causation. Defendant does not  
2 clearly explain its reasoning, but its argument appears to be that  
3 Defendants' use of force, which it contends caused the need for  
4 medical care, could not logically have interfered with Lawson's  
5 right to not have his subsequent medical needs ignored. (Mot. at 5,  
6 9.)

7 Plaintiff does not respond to Defendant's argument in her  
8 Opposition. However, upon its own review of the pleadings, the  
9 court is not persuaded that the claim should be dismissed on the  
10 basis that Defendant advocates. The SAC repeatedly asserts that,  
11 prior to their use of major force on Lawson, Defendants failed to  
12 seek or provide medical care for Lawson, despite observing  
13 symptoms--namely that Lawson was dripping in sweat and appeared to  
14 be incoherent--which indicated that Lawson was in need of immediate  
15 medical attention and despite Deputy Rahner's prior familiarity  
16 with Lawson, from which he knew or should have known that Lawson  
17 had a mental illness. (See SAC ¶¶ 28-35.) These allegations  
18 undermine Defendant's retroactive causation argument.

19 However, the court finds this component of Plaintiff's Section  
20 52.1 claim deficient for a different reason: The right invoked by  
21 Plaintiff--the 14th amendment right to be free from deliberate  
22 indifference on the part of the government to one's medical needs  
23 while in custody--cannot logically be interfered with by threats,  
24 intimidation, or coercion. "The essence of a Bane Act claim is that  
25 the defendant, by 'threats, intimidation or coercion,' tried to or  
26 did prevent the plaintiff from doing something he or she had the  
27 right to do under the law, or to force the plaintiff to do  
28 something that he or she was not required to do under the law."

1 Austin V. v. Escondido Unified School Dist., 149 Cal.App.4th 860,  
 2 883 (2007). However, in the case of the right of persons in custody  
 3 to not have their serious medical needs deliberately ignored, the  
 4 right involved is not one which may be exercised by a plaintiff by  
 5 performing or not performing particular conduct (or by acquiescing  
 6 in the conduct of others) and which may thus be the subject of  
 7 external interference. Rather, the right implies an affirmative  
 8 duty on the government to undertake certain conduct--namely, to  
 9 provide one in custody with necessary medical care. See Gibson v.  
 10 Cnty. of Washoe, Nev., 290 F.3d 1175, 1187 (9th Cir. 2002). A right  
 11 of this sort may only be violated through the government's  
 12 inaction, i.e. by failing to provide the care required; the right  
 13 may not, as a matter of logic, be interfered with by means of  
 14 threats, intimidation, or coercion. In sum, a Section 52.1 claim is  
 15 incompatible with a deliberate indifference theory. For this  
 16 reason, the court will dismiss Plaintiff's Section 52.1 claim, with  
 17 prejudice, insofar as it asserts such a theory in SAC ¶ 139.3.

18 **D. Interference with the Purported Right to Seek Medical**  
 19 **Treatment**

20 Finally, the court considers whether Plaintiff has stated a  
 21 viable Section 52.1 claim with respect to her assertion that  
 22 Defendants interfered with Lawson's "right to seek medical  
 23 treatment for his serious medical needs." (SAC ¶ 139.2.) Plaintiff  
 24 has not cited any authority establishing such a generalized right  
 25 and the court is not aware of any such authority. See, e.g., Ogrod  
 26 v. United States, 2007 WL 2319766 (E.D. Pa Aug. 10, 2007) ("The  
 27 plaintiff claims that the constitutional right at issue is the  
 28 right to seek medical care that he contends is protected by the

1 Eighth Amendment. The defendants argue that there is no  
2 constitutional right to seek medical care but only to receive  
3 medical care when in prison. The Court agrees with the  
4 defendants.") To the extent that Plaintiff is invoking the right of  
5 persons in custody to not have their serious medical needs  
6 deliberately ignored by authorities, this theory of relief is  
7 unsuccessful for the reasons just discussed. Because the court is  
8 not persuaded that Plaintiff has asserted a cognizable theory of  
9 relief, the court will dismiss the claim with prejudice insofar as  
10 it is premised on interference with the Lawson's purported right to  
11 seek medical treatment, as stated in SAC ¶ 139.2.<sup>2</sup>

#### 13 **IV. Conclusion**

14 For the reasons set forth above, the court will GRANT  
15 Defendant's Motion to Dismiss Plaintiff's Tenth Cause of Action for  
16 violations of California Civil Code § 52.1. The Tenth Cause of  
17 Action is dismissed with prejudice insofar as the claim asserts  
18 that Defendants interfered with Lawson's rights to be free from  
19 excessive force, to seek medical treatment for his serious medical

---

21 <sup>2</sup> Defendant moves to challenge this theory of relief on two  
22 grounds. First, Defendant notes that there is no allegation that  
23 Lawson attempted to seek medical care. Second, Defendant asserts  
24 that Plaintiff's theory involves retroactive causation and is  
25 therefore implausible. (Mot. at 5, 9.) In particular, Defendant  
26 appears to argue that Defendants could not have interfered with the  
27 right to seek medical care through their use of force, because it  
28 was the force itself that created the need for medical care. (Id.)  
Plaintiff does not respond to these arguments in her Opposition.  
However, the court is not persuaded that the claim should be  
dismissed on these grounds, both because the SAC alleges that  
Lawson's need for medical care preceded the use of major force, (see  
SAC ¶¶ 28-35), and because the theory asserted in SAC ¶ 139.2 is  
unsuccessful for the more fundamental reason that it invokes a  
right the existence of which is not established.

1 needs, and to have his serious medical needs not ignored by  
2 officials. The Tenth Cause of Action is dismissed without prejudice  
3 insofar as it asserts that Defendants interfered with Lawson's  
4 right to be free of unreasonable searches and seizures.

5

6

7 IT IS SO ORDERED.

8

9

10 Dated: March 19, 2014

11

12

13

14

15

16

17

18

19

20

21

22

23


24

25

26

27

28

  
DEAN D. PREGERSON  
United States District Judge